

REMARKS/ARGUMENTS

This application has been carefully considered in light of the Final Office Action issued by the Examiner on December 5, 2003. In the Office Action, the Examiner indicated the acceptance of the Terminal Disclaimer with respect to the objection for obviousness-type double patenting. The election requirement has been maintained. However, upon the allowance of a generic claim, such as claim 98, consideration on the merits of the withdrawn claims is respectfully solicited.

In the Office Action the Examiner has rejected claims 98, 99 and 104 as being directly anticipated by French reference to Gerard et al. FR2707871. Claims 98, 99 and 104 have also been rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent 5,683,468 to Pappas.

The Examiner has indicated that the subject matter of claim 103 is directed to allowable subject matter and would be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims.

With respect to the indicated allowability of claim 103, this claim has been amended to include the structure of 98 from which it depended. This claim should therefore now be in condition for allowance. Claim 104 has been amended to depend

from claim 103 and should also therefore be in condition for formal allowance. New claim 115 has been added directed to the original claim 104 depending from claim 98.

With respect to the rejection over the prior art references, claim 98 has been further amended to more definitively define the differences between the present invention and those of the prior art references. More specifically, claim 98 has been further amended to clearly indicate that the arcuate guide structure extends upwardly from only the anterior portion of the upper surface of the metal base of the knee prosthesis and further that the arcuately oriented guide structure is spaced from the central portion in a medio-lateral direction. It is respectfully submitted that the references do not disclose the positioning of the arcuately oriented guide structure such as defined by applicants' invention which extends upwardly from only the anterior portion of the upper surface of the base and spaced in a medio-lateral direction from the central portion of the base. Rather, in the cited French reference and in the reference to Pappas, the guiding structures are disclosed as being spaced from the anterior portion of the upper surface of the base.

In the Office Action, the Examiner has referenced the structure 30 as being an arcuate guide surface in the French reference. This structure is positioned generally at the central

portion of the base. The structure shown at 31 is also positioned laterally and is not positioned in the anterior portion of the base.

In the reference to Pappas, the sidewalls 433 are on opposite sides of the base and are defined as arcuate walls having the same axis of symmetry which serve to guide the tibial plate therebetween. As noted, the sidewalls are disposed at the extreme medial and lateral aspects of the tibial platform but do not extend and are not positioned only within the anterior portion of the base as is the case with the present invention.

It is respectfully submitted that the positioning of the arcuate guide structure of applicants' invention provides a utility which is not presented by the structures of the prior art and allows a more stable reconstruction of the knee joint which permits a more natural motion of the joint. Further, as pointed out at numerous areas of the present application, the positioning of the guide mechanism also allows the tibial plate to be mounted on the base by way of a purely anterior approach and thereby facilitating the reconstruction of the knee joint.

In view of the foregoing, not only is the structure of the present invention defined as being different than that of the two prior art references, there is also a unique advantage not only in the stability of the knee joint but a facilitation of the

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implant of the knee joint by allowing the purely lateral approach of the tibia relative to the metal base. Therefore, reconsideration of the grounds for rejection under 35 U.S.C. § 102(b) and 35 U.S.C. § 102(e) is respectfully requested.

An earnest effort has been made to place this application in condition for allowance which action is solicited. Should the Examiner have any further questions concerning the allowability of the claims, it is requested that the Examiner contact the undersigned attorney-of-record at the telephone number shown below.

As this response is being filed after the shortened statutory period, a separate request for extension of time is submitted together with a Request for Continued Examination (RCE). Any deficiencies in fees may be charged to Deposit Account NO. 04-1577.

Respectfully submitted,

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By 

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